

ECONOMIC DEVELOPMENT COMMITTEE

DATE: September 26, 2007

CALLED TO ORDER: 5:07 p.m.

ADJOURNED: 6:47 p.m.

ATTENDANCE

ATTENDING MEMBERS

Jackie Nytes, Chair
Lonnell Conley
André Carson
Marilyn Pfisterer

ABSENT MEMBERS

Joanne Sanders
Virginia Cain
Isaac Randolph

AGENDA

PRESENTATION-Lafayette Square CRED

Mary Clark, Community Business Development Officer, National City

PROPOSAL NO. 392, 2007- considers Greystoke 5902, LLC's "Petition for Waiver or Reduction of Property Taxes Against a Brownfield", relating to real estate located at 5902 East 34th Street
"Do Pass as Amended"

Vote 4-0

ECONOMIC DEVELOPMENT COMMITTEE

The Economic Development Committee of the City-County Council met on Wednesday, September 26, 2007. Chairman Jackie Nytes called the meeting to order at 5:07 p.m. with the following members present: Lonnell Conley, André Carson, and Marilyn Pfisterer. Vice President Joanne Sanders, Virginia Cain, and Isaac Randolph were absent. Also present was Chief Counsel Aaron Haith and Councillor Cherrish Pryor.

PRESENTATION-Lafayette Square CRED

Mary Clark, Community Business Development Officer, National City

Chair Nytes recognized Councillor Pryor, since Lafayette Square falls in Councillor Pryor's district. Councillor Pryor introduced Stephanie Quick, Department of Metropolitan Development Assistant Administrator, Economic Development, and Mary Clark, Community Business Development Officer, National City and President, Lafayette Square Area Coalition. Councillor Pryor stated that she sees great things in the future for the Lafayette Square Area. Councillor Pryor stated that the community is very diverse and adds to the fabric and culture that makes Marion County a wonderful place to live.

Ms. Quick stated that a Community Revitalization Enhancement District (CRED) is a state designation that is used to encourage investment in areas that have been affected by economic downturn. CRED status allows for city government to collect increments of sales and income tax within CRED boundaries, with a maximum of \$750,000 annually for a maximum of fifteen years. The collected increments can be used by the city to assist in the revitalization of the CRED area. Ms. Quick stated that in 2003 Mayor Peterson announced CRED designation of the Lafayette Square area. Mayor Peterson appointed the Indianapolis Advisory Commission on Industrial Development (Advisory Commission) which submitted an application for the CRED designation area. The City-County Council reviewed and approved the application and redevelopment plan submitted by the Advisory Commission. Ms. Quick stated that the boundary for the CRED surrounds the Lafayette Square area (Exhibit A) and that the redevelopment would be a physically and economically attractive magnet for commercial and retail investment, nearby residential expansion and business growth. Ms. Quick stated that the collected taxes within the CRED area can be used to acquire property, make streetscape and infrastructure improvements, and do environmental remediation. Ms. Quick stated that businesses within a CRED district can take advantage of a 25% credit against their state tax liability, if they invest in a qualified investment within the CRED, such as expanding a business, repairing/replacing a roof, repairing/replacing a HVAC system, and must be approved by the state in order for the business to receive the credit. New state regulations state that CRED credits will not be allowed for projects for new buildings on greenfield sites, or for projects that are predominately retail or hospitality in nature. Ms. Quick stated that this provision is detrimental to the Lafayette Square CRED since the CRED cannot offer the 25% tax credit to entice some businesses.

Councillor Pfisterer clarified that the 25% tax credit is for non-commercial development. Ms. Quick stated that this is true, as a result of the revised policy of the state. Councillor Pfisterer

stated that this will only leave light industrial and residential. Ms. Quick stated that the CRED does not apply to residential.

Councillor Nytes clarified that the state excludes retail and hospitality, and asked if there would be some types of commercial that would be eligible. Ms. Quick stated that office space would qualify. Chair Nytes inquired if a wholesale distribution center would qualify, and Ms. Quick responded positively.

Councillor Pfisterer inquired about an area of land that is east of Lafayette Road and north of 38th Street, between Lafayette Road and Interstate 465. She inquired if this area of land was being developed. Ms. Quick stated that this area falls just outside of the CRED district.

Chair Nytes asked Ms. Clark about the merchants within the Lafayette Square CRED. Ms. Clark stated that the Lafayette Square Area Coalition was established in 2005, as a means of getting businesses to work together to improve the area around Lafayette Square. She said that the group grew from 10 members in 2005 to almost 100 this year. Ms. Clark stated that the coalition has worked successfully to change the perception that people have of the Lafayette Square area, and credited the Coalition for creating this positive perception. She said that there are over 66 languages spoken in this area, with many businesses representing the different cultures that are present around Lafayette Square.

Councillor Pfisterer addressed the perception of crime around the Lafayette Square area. Councillor Pfisterer stated that there is an Indianapolis Metropolitan Police Department (IMPD) “roll call” site on the premises of Lafayette Square, which helps rid the perception of crime surrounding Lafayette Square. Ms. Clark stated that the media has sensationalized the crime that takes place in the Lafayette Square area, and that Lafayette Square Mall was in the “middle of the pack” as far as violence that takes place at Indianapolis malls. Councillor Pfisterer stated that the presence of the IMPD “roll call” really makes a difference as far as reducing crime and puts a perception of being cared for in the minds of patrons. Ms. Clark stated that the police are working hard, but wanted to emphasize the fact that the people of the Lafayette Square area are not as bad as they may be portrayed in the media. Councillor Pfisterer inquired about an event that will be taking place at the Macy’s Department store at the Lafayette Square Mall. Ms. Clark stated that members of the community are encouraged to come and shop Macy’s on October 13, 2007, to prove the buying power of members of the community. Ms. Clark stated that everything purchased at the Steak-n-Shake on October 6, 2007 will raise proceeds to benefit the “Breakfast with Santa.” O’Charley’s on 38th Street recently remodeled and will open up on October 6, 2007.

Councillor Conley stated his pride in the community’s involvement in the Lafayette Square area. He pointed out the brochure that states Lafayette Square District as the “Gateway to Indianapolis’ Cultural Corridor” (Exhibit B). Councillor Conley stated that too often we must look past what the media is saying, and that real action is needed to improve this and other areas of the City.

Councillor Pryor stated that Ms. Clark is understating her own role in the community, and she inquired if Ms. Clark would describe some roles that she and the Coalition play in improving

the area surrounding Lafayette Square. Ms. Clark stated that Cynthia Bowen, Lafayette Square Area Coalition Land Use Committee Chair, deserves credit for marketing the cultural diversity of the Lafayette Square area. She stated that members of the coalition visited Cincinnati to view communities similar to those in the Lafayette Square area to help demonstrate to Simon Properties that, with proper investments, the Lafayette Square area can be revitalized. Ms. Clark stated that the Coalition partnered with Indiana University-Purdue University Indianapolis (IUPUI) for a survey of the residents of the Lafayette Square area concerning their feelings on the community.

Chair Nytes stated that the Lafayette Square area is predominately thought of as retail, and in order to attract businesses with incentives, the city needs to attract businesses other than those in the retail and hospitality industries. Chair Nytes stated that there are still some empty retail boxes on the site. Ms. Clark concurred and stated that members of the coalition met with executives from Lowes Home Improvement Warehouse at their Home Office. Ms. Clark stated that there have been other companies, besides retail companies that are interested in investing in the area. Chair Nytes stated that if the coalition is successful and creative in attracting investments to the community, the Council would pledge their support and willingness to improve infrastructure needs to the area.

Stephanie Quick stated that her office partners with Indianapolis Economic Development and when an entity is looking for space, they are often guided to the Lafayette Square area first.

PROPOSAL NO. 392, 2007- considers Greystoke 5902, LLC's "Petition for Waiver or Reduction of Property Taxes Against a Brownfield", relating to real estate located at 5902 East 34th Street

Councillor Nytes stated that a new state statute allows for property tax relief if a company purchases and improves a brownfield site. Chair Nytes stated that the Greystoke 5902 is the first request for such petition within Marion County.

Chair Nytes introduced Beth Young, Attorney for Greystoke 5902, LLC and Jon Shope, Greystoke partner and owner of said property. Chair Nytes asked Ms. Young to explain the request within Proposal No. 392, 2007. Ms. Young stated that the statute was written to address abandoned real estate that has been contaminated. Ms. Young stated that the statute attempts to attract investments by waiving delinquent real estate taxes, so the property can be put to good use and put back on the tax rolls and create jobs in the community. Ms. Young stated the new law has a two-fold purpose for its requirements. The law makes sure the petitioner and the property are qualified for the waiver of delinquent taxes. The requirements for a waiver included in the statute require that the property must be a brownfield acknowledged by Indiana Department of Environmental Management (IDEM). Ms. Young stated that Greystoke 5902 LLC has documentation from IDEM outlining the extent of the contamination. She said that property must have a delinquent tax liability, and that the delinquent taxes cannot be collected from anyone but the petitioner. The petitioner must purchase property out of a bankruptcy, a receivership, sheriff sale, or from the political subdivision that took control of the property. The petitioner cannot have caused that contamination on the property or have had ownership interest

in the prior owner who caused the contamination. The petitioner must have a plan to remediate the property and the plan must be in the best interest of the community. The waiver of the tax liability must be in the best interest of the community and must be in favor of or facilitate the redevelopment of the brownfield. Ms. Young stated that the Greystoke 5902 has already been present in front of the Property Tax Assessment Board of Appeals and the Board has approved the petition.

Ms. Young stated that the property was previously owned by Bowes Industries, Inc. It was during the operations of Bowes that the property was extensively contaminated. Bowes Inc. went out of business in the late 1990's and the property was placed in a receivership through a foreclosure action. Property taxes were not paid during the time the property was in receivership. Ms. Young stated that Greystoke has met all the requirements outlined by the provision. Greystoke has hired SESCO (Exhibit C) to provide ongoing assessments of the property and initiated litigation against Bowes Industries insurance companies in order to acquire money to pay for some of the property remediation, resulting in a settlement of nearly \$1 million. \$880,000 has been placed in a trust for payment of remediation costs.

Mr. Shope stated that when Greystoke acquired the building, it had been empty for about three years. Greystoke generally purchases property that needs to be vastly improved but has never acquired a property with such environmental concerns. Mr. Shope stated that the environmental impact was much larger than initially believed when Greystoke purchased the property. Mr. Shope stated that there are now 17 different tenants who occupy this once empty building. Mr. Shope stated that there is still 27,000 square feet available out of 170,000 square feet.

Mr. Shope stated that Bowes Industries invented the "Bowes Seal Fast" tire patch, and that is what was produced at this facility for many years. Over time the compounds that were used for manufacturing leaked into the ground. What leaked into the soil sank rather quickly and until 1990 the compounds remained unnoticed. Mr. Shope stated that when Greystoke investigated the soil, they discovered contaminated soil in excess of 30 feet down into the ground. Polluted soil can be traced both on and off the former Bowes property. Mr. Shope noted that if Greystoke follows all recommendations outlined by SESCO and IDEM, the contamination will be non-detectible within two years.

Chair Nytes stated that someone else made a mess, Greystoke has to clean it up, and the company is piecing together ways to make it happen. Mr. Shope agreed and stated that Greystoke entered into the agreement knowing there were some problems that were visible. Chair Nytes inquired if Greystoke was aware of the delinquent taxes when they purchased the building. Mr. Shope stated that he was aware of the delinquent taxes. Mr. Shope stated that customarily a lender is sought to provide funds once a property is located for purchase. Due to the contamination on the property, no lender could be found. Mr. Shope stated that Greystoke had to become more creative in finding money to fund this purchase. Greystoke brokered a deal where the back taxes did not have to be paid at the time of purchase. These back taxes would be paid at a later date. Greystoke's intention was to appeal for a waiver of property taxes, which Mr. Shope stated was a customary practice on challenged properties. Mr. Shope stated that waivers typically came through neighborhood associations and other unconventional channels. Chair

Nytes inquired about the estimated clean-up costs when the property was purchased. Mr. Shope stated that the clean-up was anticipated to be around \$800,000, but as clean-up began the cost has exceeded \$2.5 million. Chair Nytes inquired if there had been a Phase I or Phase II prior to purchase. Mr. Shope stated that there had been an initial Phase I, which immediately needed samples taken, and made assumptions as to the extent of the problems. Mr. Shope stated that to his knowledge everything is now characterized and Greystoke is fairly confident in their approach.

Chair Nytes noted the table at the end of the committee packet that shows the amount of delinquent tax liability (Exhibit D). Chair Nytes noted an illustration provided by Chris Harrell, Project Manager-Brownfields, which described the steps needed to acquire a brownfields tax reduction or waiver (Exhibit E). Chair Nytes noted that the Council must make a recommendation to the Department of Local Government Finance (DLGF), who can accept or decline the recommendations from the Council. Chair Nytes pointed out that there are over 600 brownfields in Marion County, with over 200 are located in Center Township. She said that it is clear that creative steps are needed to tackle such a backlog.

Chair Nytes pointed out the table (Exhibit D) that shows the delinquent taxes owed. Chair Nytes stated that the Committee can make any recommendation from zero to the full amount requested depending on the Committee's discretion. She said stated that the amount of taxes due before Greystoke's purchase cannot be collected, since there is no one to collect it from. Chair Nytes inquired about the taxes that have accrued since the purchase of the facility. Ms. Young stated that until the property is cleaned-up, large tenants may be difficult to court. Ms. Young noted that Greystoke is trying to free up as much money as possible for remediation, for faster clean-up of the property. Ms. Young stated that her interpretation of the statute is that delinquent tax liability from an abandoned property should be waived, to free up money for remediation. Ms. Young stated that the statute requires that the delinquent tax liability has to have arisen prior to the purchase of the property by the petitioner. Ms. Young stated that this is a condition of the property and not a limitation on the amount of taxes that can be waived. Ms. Young stated that she would take an interpretation of the statute that would waive the total amount of delinquent taxes requested, to move forward with remediation. Mr. Shope noted that Greystoke has not taken a distribution, and there is not any extra money in accounts, all money collected on the property has been reinvested in the property. Mr. Shope stated that Greystoke is not forecasting any distribution for the next year either.

Chair Nytes inquired about the number of employees that are located on this site. Mr. Shope stated that an estimate would exceed sixty employees, with some part-time and seasonal employees included in that estimate. Mr. Shope stated that a distribution company, a moving company, a furniture company, and a granite fabrication company are located on the property, as well as the offices for Greystoke.

Councillor Pfisterer inquired about the number of jobs and businesses this site is intended to hold. Mr. Shope stated that when the property was purchased there were no employees on the site. He said that all the tenants are local companies and all work very well with the other tenants on the property, to create a small community of businesses. Councillor Pfisterer inquired if

Greystoke has established an objective for the building. Mr. Shope stated that the objective was to divide the property into a several tenant building from a single tenant manufacturing facility. Mr. Shope said that Greystoke has achieved its primary objective of dividing the surface structure, and that the second objective is to remediate the property so it is not a burden for anyone in the future. Councillor Pfisterer stated that she would like to know an estimate of the number of businesses that Greystoke has planned for this facility. Mr. Shope stated that when the project started he did not have a designated number of businesses and that it is very difficult for the company to project such a number. He noted that the facility is on a bus route, and that helps attract business, since employees will have a means to travel to work. Mr. Shope stated that he never came with the intent of creating a set number of jobs. Ms. Young stated that the current contamination of the property has significantly limited the ability to attract national business, the property is not commercially finance able in its current contaminated state. Ms. Young stated that any expansions or renovations are significantly limited for the long-term prospects of the property.

Councillor Pfisterer inquired about any grant applications for this property. Mr. Shope stated previous laws were not beneficial to developers and many loopholes created problems for developers. Greystoke was advised to acquire real money, real fast. Mr. Shope stated that the property did receive a \$15,000 façade grant, but had to sell the property to a neighborhood development corporation and have the property deeded back to Greystoke in order to take advantage of the grant. Mr. Shope stated that it has been difficult to acquire facilitators for grants since the property is contaminated. Mr. Shope noted that programs have changed tremendously over the past four years since Greystoke has acquired the property. Councillor Pfisterer inquired if Greystoke customarily pursued grants. Mr. Shope stated that Greystoke does generally apply for grants, but this property did not qualify for grants due to evolving and modified standards of the grant issuer.

Chair Nytes stated that she had spoken to Chris Harrell, and he stated that grants from the city were not an avenue that would work this particular project.

Councillor Pfisterer inquired if all the contamination was underground on the property. Mr. Shope stated that currently all the contamination is under ground.

Councillor Conley inquired about the diversity of the tenants that are currently located on the property. Mr. Shope stated that the building represents a more than fair ethnicity split for the immediate area of town.

Councillor Conley moved, seconded by Councillor Carson to amend Proposal No. 392, 2007.

Chair Nytes stated that she wanted to examine the amendment that has been presented. Chair Nytes stated that the citizens of Marion County are very concerned with any entity that may not have to pay taxes. She said that the Economic Development Committee has discussed tax abatements and their role in attracting business within the county. Chair Nytes noted that there are two elements to the amendment, the first being the actual amount of the request to be waived. The second element entertains the request for Greystoke to regularly report the makeup of the

staff at the businesses within the Greystoke building. Mr. Shope noted that he does not have an issue with collecting or reporting such data but inquired as to when the data must be reported. Chair Nytes asked Ms. Quick to inform Mr. Shope of the reporting program. Ms. Quick stated that the program is an annual survey. Ms. Quick stated that the survey bases its questions on information within the redevelopment plan submitted to the Metropolitan Development Commission (MDC). Mr. Shope inquired if Greystoke would work with MDC to design a set of surveyable trends to watch. Chair Nytes stated that Greystoke would establish, with the MDC, the measurable conditions to report back to the MDC. She said that there are many more applications for waivers coming to the Council, and the Council must have a way to measure what difference the waivers are having in the community. Chair Nytes stated the Council must prove that the waiver is for the greater good of the community.

Ms. Young stated that the statute declares that the Auditor monitors the completion of the plan, and the request falls into the statutory scheme of the monitoring. Chair Nytes stated that the Auditor's office is not as equipped as Ms. Quick's office for this monitoring. Ms. Young stated that this is a great way to come up with a reporting scheme, and then present that evidence to the Auditor's office. Chair Nytes stated that there is a sort of claw back provision outlined in the statute. If all the requests are not followed through, the Auditor has the authority to reinstate all of the back delinquent taxes.

Chief Counsel Aaron Haith quoted Indiana Code 6-1.1-45.5-5(6), stating that no delinquent taxes shall be waived after the petitioner has taken possession of the property. Mr. Haith stated that some of the delinquent taxes outlined by Greystoke were incurred after Greystoke took possession of the property. Mr. Haith stated that the statute will not allow for the waiver of the assessed 2004 or the assessed 2005 delinquent taxes. Mr. Haith also stated that under 6-1.1-45.5-8(g) outlines the role of the Auditor. Mr. Haith stated that the plan issued by Greystoke does not have a planned end date for remediation, and the Auditor would not be able to fulfill their part as outlined by the statute.

Chair Nytes stated that she would like to address the end date question first. Ms. Young stated that due to the extent of the contamination on the property, all remediation items must be approved by IDEM. Ms. Young stated that the Property Tax Assessment Board of Appeals recommended that their end date would be the end date imposed by IDEM, and IDEM will not allow for a plan without an end date. Chair Nytes noted that Greystoke was not planning on cleaning up the site by removing contaminated dirt and backfilling the land. Mr. Shope described the process that Greystoke was using to remove the contamination from the ground. Mr. Shope stated that he would not like to take his problem and pass it on to someone else. The plan is to treat the contamination in place and permanently without removing the land. Mr. Shope stated that the contamination was to be cleaned up using liquid whey, injected into the ground where it degrades the contamination fairly quickly. This technique is a bit more expensive than digging and hauling, but is a better solution.

Chair Nytes stated that if a reporting process were set up with Ms. Quick, the city could be made aware of and track a time frame for completion of remediation. Mr. Haith stated that it would give the opportunity, but not the actual tool the Auditor needs which is the projected end date.

Chair Nytes stated that Greystoke can report an end date in the plan, and keep the Council informed of the end date, and let the DLGF make the final recommendation.

Chair Nytes entertained discussion pertaining to the amount of delinquent taxes to be waived by the Council. Ms. Young stated that Mr. Haith made valid points in his assessment of the statute. Ms. Young stated that the State Legislature could have written the law to be much more specific than what is written in 6-1.1-45.5-5(6). Mr. Haith stated the way statute is interpreted is that the language is given its plain meaning. Mr. Haith stated his interpretation is that that law reads that taxes that can be waived would be those accrued before the purchase of the property. Chair Nytes stated that the Committee cannot determine legislative intent, and the narrower meaning of the law must be followed. Chair Nytes stated that Greystoke can appeal this decision before the DLGF who are closer to the people who actually made the statute.

Councillor Pfisterer stated that at the point of acquisition of the property, responsibility did become due. She stated a good compromise would be to pay the taxes accrued since the purchase of the property.

Councillor Conley stated that he is comfortable with the passage of the proposal as amended. Councillor Conley also stated that since this is the first company, of many, to take advantage of this statute, it may need to be tweaked when others come before the Council.

Chair Nytes stated her recommendation that the amendment read "years assessed prior to 2004." Chair Nytes mentioned that the petitioner has a chance to appeal the Council's recommendation to the DLGF.

Councillor Conley's motion to amend Proposal No. 392, 2007 carried 4-0 after much discussion.

Councillor Conley moved, seconded by Councillor Pfisterer to send Proposal No. 392, 2007 to the full Council with the recommendation "Do Pass as Amended." The motion carried 4-0.

With no further business pending, and upon motion duly made, the Municipal Corporations Committee of the City-County Council was adjourned at 6:47 p.m.

Respectfully submitted,

Jackie Nytes, Chair
Economic Development Committee

JN/brs